

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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IN RE: LIPITOR (ATORVASTATIN  
CALCIUM) MARKETING, SALES  
PRACTICES AND PRODUCTS  
LIABILITY LITIGATION

)  
) MDL No. 2:14-mn-02502-RMG  
)

) **CASE MANAGEMENT ORDER NO. 2**  
)

) **This Order relates to All Actions.**  
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**Monthly Status Conferences**

1. The Court will hold monthly status conferences, the first of which will be set shortly after the Court appoints Plaintiffs' Leadership Team.
2. Lead Counsel, Liaison Counsel, and any counsel intending to argue a motion or actively participate in a status conference must appear in person, unless specifically authorized by the Court to participate by telephone.
3. Any counsel who wishes to attend, but not actively participate in, a status conference may appear by phone. Plaintiffs' Lead Counsel and/or Liaison Counsel shall consult with opposing counsel and the Court's Courtroom Deputy and develop call-in procedure for counsel wishing to appear by phone.
4. Lead Counsel for Plaintiffs and Defendant must confer before each status conference and submit a joint status report five (5) business days before the conference. This joint status report should be filed via ECF and include (a) a summary of the discovery conducted since the last status conference, (b) updates about related federal cases not yet transferred to this District, (c) updates about related state cases, (d) any issues that the parties wish to

raise to the Court, and (e) if the parties have differing views on issues raised to the Court, their respective positions on these issues.

5. Counsel should be prepared to argue any pending motions at status conference.

#### **Appointment of Plaintiffs' Leadership Structure**

6. The Court intends to appoint a Plaintiffs' Steering Committee (PSC). The PSC will be responsible for the conduct of discovery, presenting Plaintiffs' positions to the Court and opposing parties, entering into stipulations as appropriate and necessary, and performing such other duties as required to ensure proper coordination of Plaintiffs' pretrial activities.
7. The Court also intends to appoint a Plaintiffs' Lead Counsel and/or Plaintiffs' Executive Committee (PEC) that will be responsible for coordinating and overseeing the activities of Plaintiffs and the PSC during pretrial proceedings. Lead Counsel will be responsible for delegating specific tasks to other counsel, and performing such other duties as required to ensure proper coordination of Plaintiffs' pretrial activities.
8. Finally, the Court may appoint a Plaintiffs' Liaison Counsel. Liaison Counsel will be responsible for receiving, on behalf of all Plaintiffs, notices and orders of the Court and maintaining all documents served upon Plaintiffs' counsel and making such documents available to all counsel for Plaintiffs upon request.
9. In appointing members of the PSC, members of the PEC, Lead Counsel, and Liaison Counsel the Court will consider (a) experience in managing complex litigation, (b) knowledge of the subject matter and efforts in research and investigating claims, (c) resources, willingness and availability to commit to a time-consuming project, and (d) the

ability to work cooperatively with others. Only attorneys who have instituted a civil action in this MDL litigation will be considered.

10. Any counsel who would like to be considered for membership on the PSC, membership on the PEC, Lead Counsel, or Liaison Counsel must submit, within ten (10) days of the date of this Order, an application packet that includes (a) a resume, (b) a list of relevant prior experience, (c) a list of judges that have presided over complex litigation in which the applicant was counsel and (d) his or her proposed fee arrangement. The application materials should be combined into a single pdf file and submitted via email to [gergel\\_ecf@scd.uscourts.gov](mailto:gergel_ecf@scd.uscourts.gov). The email subject line for applications should read: MDL 2502, Application for Plaintiffs' Leadership Team.
11. The twenty-two counsel who have already presented the Court with their Curriculum Vitae and other information on their qualifications need not resubmit material previously provided to the Court. However, these counsel should submit any information listed in Paragraph 9 not previously submitted to the Court.
12. Any counsel who would like to express support for a particular applicant for Lead Counsel may do so by submitting a Letter of Support to the Court within ten (10) days of the date of this Order. The Letter of Support should be a single pdf file submitted via email to [gergel\\_ecf@scd.uscourts.gov](mailto:gergel_ecf@scd.uscourts.gov). The email subject line for Letters of Support should read: MDL 2502, Letter of Support for [insert applicant's name]. Multiple counsel may join in a single Letter of Support, rather than submitting separate letters.

#### **Motions Practice**

13. All motions that are currently pending in these consolidated actions or pending in an action at the time of transfer to this District, except motions for remand, are DENIED

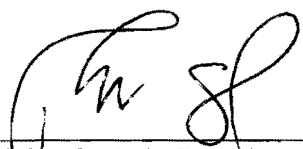
WITHOUT PREJUDICE and with leave to refile in accordance with the procedures of this Order and Case Management Order No. 1 (Dkt. No. 6).

14. If a motion to remand is pending in any of these consolidated actions or pending in an action at the time of transfer to this District, counsel shall file a "Notice of Pending Motion(s) to Remand" on the MDL docket. This notice must include the case number(s) of the action(s) in which a motion to remand is pending and the docket entry number for the motion(s) to remand. This notice should be filed via ECF using the "Letter" event.
15. Any motion that is not signed by Lead Counsel must (1) contain an affirmation by movant's counsel that, prior to filing the motion, he or she conferred with Lead Counsel about the filing of the motion, and (2) state whether Lead Counsel consents to the filing of the motion. All counsel must comply with Local Civil Rule 7.02 D.S.C. when filing motions.
16. Where counsel for more than one party plan to file substantially similar motions, they shall join in the submission of such motions and shall file only one motion on behalf of all so joined.

**Other Matters**

17. In any action that is (a) filed in or transferred to this Court after this Order is entered and (b) consolidated with this action for pretrial purposes, the Clerk shall provide notice of Case Management Order No. 1 and this Order.

**AND IT IS SO ORDERED.**

  
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Richard Mark Gergel  
United States District Court Judge

March 28, 2014  
Charleston, South Carolina